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December 1, 2005

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E.
Suite 110
Washington, D.C. 20002

Re: Facility ID No. 35883
KWGN-DT, Denver, Colorado
KWGN's Section 339(a)(2)(D)(vii) Waiver Request
MB Docket No. 05-317

Dear Ms. Dortch:

KWGN Inc., licensee of KWGN-DT, Denver, Colorado ("KWGN"), by its undersigned counsel, hereby requests a waiver of the April 30, 2006, DTV signal strength testing deadline authorized by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"). This waiver request is filed pursuant to the Commission's recent Public Notice announcing the deadline for filing SHVERA signal strength waivers for network affiliates in the top-100 markets.¹ KWGN requests an extension because it has been unable to complete construction of KWGN-DT's maximized facility due to delays in securing local zoning approval of the building permit needed to construct/install the maximized DTV facilities at KWGN's transmitter site on Lookout Mountain in Jefferson County, Colorado.²

KWGN is the WB affiliate in the Denver, Colorado DMA, which is one of the top-100 markets in the U.S. KWGN has a maximized DTV construction permit. See FCC File No. BPCDT-19991029AHP. KWGN, along with, *inter alia*, the Denver CBS, NBC and ABC

¹ Public Notice, "DTV Station Requests for Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004 to be filed by November 30, 2005 on February 15, 2007," DA 05-2979, released November 17, 2005.

² See 47 U.S.C. § 339(a)(2)(D)(viii)(II).

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affiliates, has been unable to complete construction of its maximized DTV facility because it has been unable to secure local approval of a building permit needed to construct/install these maximized facilities at its transmitter site on Lookout Mountain. Like these other Denver television stations, KWGN has received several DTV construction extensions from the FCC due to these local zoning delays.³ Pending approval of its building permit application, KWGN built and signed-on a DTV STA facility on November 18, 2003. *See* FCC File No. BEDSTA-20051007ADD. This KWGN-DT STA operation provides substantial service to the market, including the requisite 48 dBu signal to Denver, KWGN's City of License.

Because it has been unable to complete construction of its maximized DTV facilities due to local zoning delays, KWGN clearly satisfies one of the waiver criteria specified in SHVERA. *See* 47 U.S.C. §339(a)(2)(D)(viii)(II). For this reason, the FCC should grant the instant request for a waiver of the DTV signal strength measurement deadline.

Finally, KWGN submits that the November 30, 2005 deadline for network affiliates in the top-100 markets to file DTV signal strength testing waiver requests under SHVERA does not apply here because neither DirecTV nor EchoStar is currently carrying the DTV signal of even one WB affiliate. Thus, under SHVERA, no subscriber can be eligible to receive a distant digital signal of a WB station by ordering a signal strength test because there are no distant digital WB signals available from either satellite carrier. Until such time as DirecTV or EchoStar respectively begins carrying the DTV signal of at least one WB affiliate, the DTV signal strength testing provisions of SHVERA do not apply to WB affiliates in the top-100 markets like KWGN.

Please direct any questions regarding this request to the undersigned.

Sincerely,

// Thomas P. Van Wazer //

³ *See, e.g., DTV Build-out, Requests for Extension of the Digital Construction Deadline, Commercial Stations With May 1, 2002 Deadline*, Order, FCC 03-250, ¶ 16, released October 23, 2003; *Requests for Further Extension of the Digital Television Construction Deadline*, Order, ¶ 9, released February 6, 2003.